

RECORDATION NO. 18223-D FILED

JUL 09 '04 4-18 PM

SURFACE TRANSPORTATION BOARD

ALVORD AND ALVORD  
ATTORNEYS AT LAW  
1050 SEVENTEENTH STREET, N.W.  
SUITE 301  
WASHINGTON, D.C.

20036

(202) 393-2266

FAX (202) 393-2156

E-MAIL alvordlaw@aol.com

ELIAS C. ALVORD (1942)  
ELLSWORTH C. ALVORD (1964)

OF COUNSEL  
URBAN A. LESTER

July 1, 2004

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Re: Southern Pacific Transportation Company

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Lease Assignment Agreement, dated as of July 9, 2004, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Assignment and Assumption Agreement filed with the Board under Recordation Number 18223-C.

The names and addresses of the parties to the enclosed document are:

Head Lessor/  
Assignor:

Emerson Partnership, LLP  
c/o Stills Unlimited  
Queensgate House  
P O Box 1093 GT  
South Church Street  
Grand Cayman  
Cayman Islands

Head Lessee/  
Assignee:

North America Rail Leasing #3 LLC  
(d/b/a Babcock & Brown Rail Leasing)  
230 Park Avenue, 32nd Floor  
New York, New York 10169  
Attention: Rail Operating Lease Group

Mr. Vernon A. Williams  
July 1, 2004  
Page 2

A description of the railroad equipment covered by the enclosed document  
is:

88 aluminum coal hopper railcars within the series CTRN 400001 - CTRN  
400115 as more particularly set forth in the equipment schedule attached  
to the document.

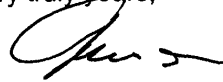
A short summary of the document to appear in the index is:

Lease Assignment Agreement.

Also enclosed is a check in the amount of \$30.00 payable to the order of  
the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the  
undersigned.

Very truly yours,



Robert W. Alvord

RWA/anm  
Enclosures

RECORDATION NO. 18223-1 FILED

JUL 09 '04 4-18 PM

Execution Version  
SURFACE TRANSPORTATION BOARD

## LEASE ASSIGNMENT AGREEMENT

This Lease Assignment Agreement dated as of July 9, 2004 (this "Agreement"), is between North America Rail Leasing #3 LLC (d/b/a Babcock & Brown Rail Leasing), a Delaware limited liability company (the "Head Lessee") and The Emerson Partnership, LLP, a Delaware limited liability partnership (the "Head Lessor"). Capitalized terms used herein without definition shall have the meanings ascribed thereto in the Head Lease (defined below) which also contains rules of usage that apply to terms defined therein and herein.

### RECITALS:

A. The Head Lessor is the owner of the railcars described on Exhibit A hereto (the "Equipment").

B. Concurrently herewith, the Head Lessor and the Head Lessee will execute and deliver a Railcar Lease Agreement (INTOL I Interim Restructuring) dated as of the date hereof (as amended, modified or supplemented, the "Head Lease") in respect of the Equipment.

C. The Head Lease contemplates the execution and delivery of this Agreement by the Head Lessor and the Head Lessee on the date hereof.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

1. Assignment. Effective from and after the date hereof, the Head Lessor assigns, transfers and conveys to the Head Lessee all of the Head Lessor's rights, title and interest in (i) all Lease Payments paid or payable under the Leases, including, without limitation, all existing funds currently held in the Collateral Account (other than existing amounts so held constituting casualty proceeds) and (ii) each of the following agreements as they relate to the Equipment:

- (a) the Railcar Lease Agreement dated as of April 28, 1993 entered into by and between the Head Lessor, as lessor, and Union Pacific Railroad Company (formerly known as Southern Pacific Transportation Company) (the "Lessee"), as lessee, as amended, modified or supplemented from time to time;
- (b) the Tax Indemnity Agreement dated as of April 28, 1993 between the Head Lessor and the Lessee; and
- (c) the Supplement and Acceptance Certificate dated April 29, 1993 between the Head Lessor and the Lessee (collectively, the "Assigned Agreements").

Notwithstanding the foregoing, the Head Lessor shall continue to be entitled to the benefit of Excepted Property attributable to it or its Affiliates.

2. Acceptance of Assignment; Effect of Assignment. The Head Lessee accepts the assignment contained in Section 1 and agrees to be bound to the same extent as the Head Lessor by all the terms of the Assigned Agreements, provided that notwithstanding the foregoing, the Head Lessor confirms that it shall retain and remain obligated to perform all obligations of the lessor under the Assigned Agreements.

3. Amendments. No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

4. Notices. All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Section 14E of the Head Lease.

5. Headings. The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

6. Counterparts. This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

7. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of New York, without giving effect to the conflict of law rules thereof, other than Section 5-1401 of the New York General Obligations Law.

8. Recordation. The Head Lessee and the Head Lessor agree to record this Agreement with the Surface Transportation Board and with the Registrar General of Canada, if applicable, to evidence the assignment by the Head Lessor to the Head Lessee of the Head Lessor's rights under the Lease, if and only if the Lease has been recorded with the Surface Transportation Board and/or the Registrar General of Canada, as the case may be.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Lease Assignment Agreement has been duly executed by the parties hereto as of the date first above written.

NORTH AMERICA RAIL LEASING #3 LLC  
(d/b/a BABCOCK & BROWN RAIL LEASING),  
as the Head Lessee

By: 

Name: Ross Sullivan  
Title: Vice President

THE EMERSON PARTNERSHIP, LLP,  
as the Head Lessor

By: Stills Limited, its General Partner

By: \_\_\_\_\_

Name:  
Title:

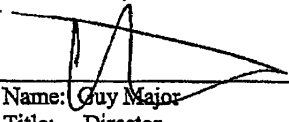
IN WITNESS WHEREOF, this Lease Assignment Agreement has been duly executed by the parties hereto as of the date first above written.

NORTH AMERICA RAIL LEASING #3 LLC  
(d/b/a BABCOCK & BROWN RAIL LEASING),  
as the Head Lessee

By: \_\_\_\_\_  
Name:  
Title:

THE EMERSON PARTNERSHIP, LLP,  
as the Head Lessor

By: Stills Limited, its General Partner

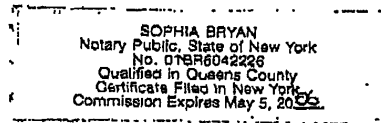
By:  \_\_\_\_\_  
Name: Guy Major  
Title: Director

State of New York       )  
                                  )  
County of New York     )

On this, the 30<sup>th</sup> day of June, 2004, before me, a Notary Public in and for said County and State, personally appeared Ross Sullivan, a Vice President of North America Rail Leasing #3 LLC (d/b/a Babcock & Brown Rail Leasing), who acknowledged himself to be a duly authorized officer of North America Rail Leasing #3 LLC (d/b/a Babcock & Brown Rail Leasing), and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Sophia Bryan  
Notary Public  
My Commission Expires: May 5, 2006  
Residing in: New York, NY



On this, the 18<sup>th</sup> day of June, 2004, before me, a Notary Public in and for the Cayman Islands, personally appeared Guy Major, who acknowledged himself to be a duly authorized person of the General Partner of The Emerson Partnership, LLP, and that, as such duly authorized person, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

*Wm*

Name: Wendy Ebanks  
Notary Public

My Commission Expires: 31 January, 2005

Residing in: Cayman Islands



Exhibit A

**EQUIPMENT**

| <u>Lessee</u>  | <u># Cars</u> | <u>Description</u>   | <u>Reporting Marks</u>            | <u>Casualty Marks</u>   |
|--|---------------|--|-----------------------------------|---|
| Union Pacific<br>Railroad<br>Company<br>(f/k/a<br>Southern<br>Pacific<br>Transportation<br>Company) #1 | 88            | 3,870 cubic<br>foot, 100 ton<br>aluminum<br>rapid discharge<br>coal hopper<br>railcars | CTRN 400001-<br>400115, inclusive | CTRN 400002, 400007,<br>400008, 400013,<br>400014, 400023,<br>400031, 400032,<br>400034, 400037,<br>400044, 400049,<br>400055, 400058,<br>400059, 400064,<br>400066, 400069,<br>400074, 400083,<br>400086, 400094,<br>400098, 400102,<br>400103, 400106 and<br>400114 |